

PERRY v. LOUISIANA

CERTIORARI TO THE 19TH JUDICIAL DISTRICT COURT OF
LOUISIANA

No. 89-5120. Argued October 2, 1990—Decided November 13, 1990

Vacated and remanded.

Keith B. Nordyke argued the cause for petitioner. With him on the brief were *June E. Denlinger* and *Joe Giarrusso, Jr.*

Rene I. Salomon, Assistant Attorney General of Louisiana, argued the cause for respondent. With him on the brief were *William J. Guste, Jr.*, Attorney General, and *M. Patricia Jones*, Assistant Attorney General.*

PER CURIAM.

The judgment is vacated and the case is remanded to the 19th Judicial District Court of Louisiana for further consideration in light of *Washington v. Harper*, 494 U. S. 210 (1990).

It is so ordered.

JUSTICE SOUTER took no part in the consideration or decision of this case.

*Briefs of *amici curiae* urging reversal were filed by the American Psychiatric Association et al. by *Joel L. Klein, Joseph N. Onek, Richard G. Taranto, Carter G. Phillips*, and *Kirk B. Johnson*; and for the Coalition for Fundamental Rights and Equality of Ex-patients by *Peter Margulies*.

Per Curiam

CAGE v. LOUISIANA

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF LOUISIANA

No. 89-7302. Decided November 13, 1990

The Due Process Clause of the Fourteenth Amendment “protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged.” *In re Winship*, 397 U. S. 358, 364. Petitioner Cage was convicted in Louisiana of first-degree murder and was sentenced to death. In his trial’s guilt phase, the jury was instructed that guilt must be found beyond a reasonable doubt, that reasonable doubt was “such doubt as would give rise to a grave uncertainty” and “an actual substantial doubt,” and that what was required was a “moral certainty.” In affirming Cage’s conviction, the State Supreme Court rejected his argument that, *inter alia*, the instruction violated the Due Process Clause and concluded that, “taking the charge as a whole,” reasonable persons would understand the reasonable-doubt definition.

Held: The instruction was contrary to the “beyond a reasonable doubt” requirement articulated in *Winship*. The words “substantial” and “grave” suggest a higher degree of doubt than is required for acquittal under the reasonable-doubt standard. When those statements are then considered with the reference to “moral,” rather than evidentiary, certainty, a reasonable juror, taking the charge as a whole, could have interpreted the instruction to allow a finding of guilt based on a degree of proof below that required by the Due Process Clause.

Certiorari granted; 554 So. 2d 39, reversed and remanded.

PER CURIAM.

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted.

In state criminal trials, the Due Process Clause of the Fourteenth Amendment “protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged.” *In re Winship*, 397 U. S. 358, 364 (1970); see also *Jackson v. Virginia*, 443 U. S. 307, 315–316 (1979). This reasonable-doubt standard “plays a vital role in the American